

REMARKS

Claims 17-33 and 36-38 remain in the application and claims 17-33 and 36-38 are pending.

The Examiner has considered Applicant's Declaration filed on January 27, 2006, but indicated that the Declaration was ineffective to overcome U.S. Patent No. 6,429,139 B1 ("Ryan et al."). *Office Action* p. 2. The Examiner asserted that there was insufficient evidence to establish diligence in reducing the invention to practice between a date prior to December 17, 1999 and June 30, 2000. *Office Action*, p. 2. Applicants enclose a Supplemental Declaration that establishes diligence toward the constructive reduction to practice of the invention during the above-mentioned time period in accordance with *M.P.E.P.* § 2138.06 (citing *Bey v. Kollonitsch*, 866 F.2d 1024, 231 *USPQ* 967 (Fed. Cir. 1986)). Accordingly, Applicant respectfully submits that the enclosed Supplemental Declaration together with the Declaration submitted on January 27, 2006 establish Applicant's date of invention prior to December 17, 1999, the effective date of Ryan et al., and diligence during the above-mentioned time period.

Thus, Applicant respectfully requests withdrawal of the rejection of claims 17-33 and 36-38 as being anticipated by Ryan et al. or obvious in view of Ryan et al. combined with U.S. Patent No. 4,226,205 ("Nishida et al.").

The Examiner rejected claims 20-23 under 35 *U.S.C.* § 112 (second paragraph) as lacking antecedent basis for the term "the first and second articles." Applicant has amended claims 20 and 21 to claim "wherein the articles comprise first and second articles which are..." Thus, Applicant respectfully submits that the Examiner's rejection of claims 20-23 as lacking antecedent basis has been overcome and requests withdrawal of the rejection under § 112 (second paragraph).

The Examiner rejected claims 17-19, 24-26, 30 and 36-38 under 35 *U.S.C.* § 102(e) as being anticipated by Ryan et al. Applicant respectfully submits that in view of Applicant's Declaration and Supplement Declaration, Applicant's invention antedates Ryan et al., thus, claims 17-19, 24-26, 30 and 36-38 are not anticipated by Ryan et al. Accordingly, Applicant respectfully requests withdrawal of the rejections to claims 17-19, 24-26, 30 and 36-38 as being anticipated by Ryan et al.


The Examiner rejected claims 20-23, 27-29 and 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Ryan et al. in combination with U.S. Patent No. 4,226,208 (“Nishida et al.”). Applicant respectfully submits that in view of Applicant’s Declaration and Supplemental Declaration, Applicant’s invention antedates Ryan et al., thus, the combination of Ryan et al. and Nishida et al. does not render claims 20-23, 27-29 and 31-33 as obvious. Accordingly, Applicant respectfully requests withdrawal of the rejections to claims 20-23, 27-29 and 31-33 as being obvious in view of Ryan et al. combined with Nishida et al.

Applicant respectfully requests entry of this Amendment after Final pursuant to 37 C.F.R. §§ 1.116(a)(1), (e). The amendments to claims 20-21 were made merely to comply with a requirement of form (i.e. the Examiner’s rejection under 35 U.S.C. § 112 for lack of antecedent basis for the term “the first and second articles”) expressly set forth in the Office Action and to place claims 20-21 in better condition for allowance. In addition, Applicant respectfully submits that the Supplemental Amendment was not earlier presented because Applicant did not have the benefit of the Examiner’s remarks regarding the showing of diligence from a date prior to December 17, 1999 and June 30, 2000. Accordingly, Applicant respectfully requests entry of this Amendment after Final.

In view of the forgoing remarks, the enclosed supplemental Declaration and the January 27, 2006 Declaration, Applicant respectfully requests that the rejection of claims 20-23 under 35 U.S.C. §112, rejections to claims 17-19, 24-26, 30 and 36-38 as being anticipated by Ryan et al. and that the rejections to claims 20-23, 27-29 and 31-33 as being obvious in view of Ryan et al. combined with Nishida et al. be withdrawn and that the application be promptly passed to issue.

Respectfully submitted,

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